

CHAPTER 314
RENEWABLE FUEL INFRASTRUCTURE PROGRAM ADMINISTRATION

261—314.1(81GA,ch1142) Allocation of awards by congressional district. The board shall use the boundaries of the state's five congressional districts, and prorate and equally distribute the amount available each fiscal year for each district. The board shall have at its discretion a prorated amount (up to \$500,000) to distribute to any congressional district. On April 1 of each year, if funds allocated to a district have not been committed, the unobligated balance shall revert to the reserve fund and be available for other projects approved by the board.

261—314.2(81GA,ch1142) Form of award available; award amount.

314.2(1) *Form of award.* Eligible applicants may apply for financial incentives on a cost-share basis. Funding shall be available in the form of a grant.

314.2(2) *Retroactive grants for projects already completed or in process.* A grant may be awarded for an eligible project already completed or in the process of being completed on or after July 1, 2005, the effective date of the original grant program. This stipulation is true even if the project was not funded under the infrastructure program implemented pursuant to Iowa Code Supplement section 15.401.

314.2(3) *Prospective grants for projects not commenced.* A grant may be awarded for an eligible project not yet commenced.

314.2(4) *Amount of award.* The maximum award limit per project shall not exceed \$30,000 or 50 percent of the actual cost of making the improvements, whichever is less, in the case of retail motor fuel site grants, or \$50,000 or 50 percent of the actual cost of making the improvements, whichever is less, in the case of biodiesel terminal grants.

314.2(5) *Time of payment.* The grant shall be paid only upon timely completion of the project and upon the board's receipt of records satisfying the board of the applicant's qualifying expenditures.

a. The applicant must deliver to the board prior to payment a certificate of completion on the board's form.

b. The certificate of completion must include the IDNR checklist completed and signed by an Iowa-certified installer showing review and approval of the completed project.

c. The certificate of completion must be accompanied by proof of financial responsibility as necessary to meet federal requirements for underground storage tank installation.

314.2(6) *Deadline for completion.* The project must be completed within eight months of the board's approval of the award. An extension may be granted by the board upon application showing demonstrable progress toward completion.

314.2(7) *Multiple awards.*

a. At a single fuel site. The board may approve multiple awards for projects at a single site provided the total amount of the awards at that site does not in the aggregate exceed 50 percent of the actual cost of making the improvement or \$30,000 in the case of E-85 gasoline, biodiesel or biodiesel blended fuel grants, whichever is less, or 50 percent of the actual cost of making the improvement or \$50,000 in the case of biodiesel terminal grants, whichever is less, at that motor fuel site during the triennium ending June 30, 2012.

b. At multiple fuel sites. An applicant may apply for and be granted multiple grants for different motor fuel sites. The \$30,000/50 percent and \$50,000/50 percent limits described in subrule 314.2(4) apply only to individual motor fuel sites. However, the board shall make awards fairly and properly among applicants and geographic areas.

c. In the event that funding will be exhausted at the end of the fiscal year, the board shall approve remaining applications based on criteria implemented by the board as set forth in subrule 314.4(2).

314.2(8) *No cross-program double-dipping beyond the per-site maximum.* No project which has been funded under the infrastructure program administered pursuant to Iowa Code Supplement section 15.401 is eligible for funding under this program beyond the applicable program per-site cap of \$30,000 or \$50,000.

261—314.3(81GA,ch1142) Application process.

314.3(1) *Application procedures.*

a. Applications may be submitted at any time, but will be reviewed on a first-come, first-served basis as established by the date stamp on the filed application.

b. Applications shall be submitted to: Renewable Fuel Infrastructure Board, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309. Application forms and instructions are available at this address.

314.3(2) *Contents of application.*

a. Statutory requirements. An application shall include the information required in 2006 Iowa Acts, chapter 1142, section 30(4) “*b.*”

b. Other information required by the board:

(1) Assurance that the project will be for the purpose of installing, replacing, or converting equipment for the storage or dispensing of the renewable fuel under consideration.

(2) Assurance that all equipment funded by the grant is designed and will be used exclusively to store or dispense E-85 gasoline, biodiesel or biodiesel blended fuel, respectively, for the period specified in the agreement.

(3) An IDNR checklist indicating the current status of the site.

(4) Assurance of compliance with any and all federal requirements for financial responsibility.

(5) Assurance of compliance with any and all state and federal laws and regulations.

(6) A cost proposal from an Iowa-licensed underground storage tank installer (for underground storage projects) and a qualified aboveground storage tank installer (for aboveground storage projects).

(7) Documentation of initiation of the process of applying to an independent laboratory and the manufacturer’s written statement that the dispenser is “not incompatible.”

261—314.4(81GA,ch1142) Review process.

314.4(1) The department shall forward completed applications to the underground storage tank fund board for evaluation and recommendation, as specified in 2006 Iowa Acts, chapter 1142, section 30(2). The underground storage tank fund board shall then forward the applications to the renewable fuel infrastructure board for final approval or disapproval. The renewable fuel infrastructure board shall determine the amount of financial incentives to be awarded to an applicant.

314.4(2) Completed applications, including supporting documentation of meeting eligibility requirements, will be reviewed on a first-come, first-served basis. If the amount of funding requests exceeds available funds, the board shall evaluate applications based upon criteria that include, but are not limited to, the following:

a. Submittal of a completed application, including supporting documentation.

b. Location factors such as demographics, proximity to major transportation corridors, and proximity to existing renewable fuel retail and storage facilities.

c. Projected annual sales volume.

d. Other sources of funding.

e. Previous grants awarded.

261—314.5(81GA,ch1142) Contract administration.

314.5(1) *Notice of award.* The department shall notify approved applicants in writing of the board's award of grants, including any conditions and terms of the approval.

314.5(2) *Contract required.* The board shall direct the department to prepare a cost-share agreement which shall include terms and conditions of the grant established by the board. The agreement will:

- a. Describe the project in sufficient detail to demonstrate the eligibility of the project.
- b. State the total cost of the project expressed in a project budget included in sufficient detail to meet the requirements of the infrastructure board.
- c. State the project completion deadline.
- d. State the project completion requirements which are preconditions for payment of the grant by the board.
- e. Recite the penalty for the storage or dispensing, within the stated time frame of five years from submission of verified documentation of project completion, of motor fuel other than the type of renewable fuel for which the grant was awarded.

314.5(3) *Repayment penalty for nonexclusive renewable fuel use.* In the absence of a waiver from the board, the department may impose a civil penalty due to a grantee's use of infrastructure equipment for which a grant was awarded, for the storage or dispensing, within the time frame stated in the agreement, of motor fuel other than the type of renewable fuel for which the grant was awarded.

314.5(4) *Duration of grant agreement; repayment or board waiver.*

- a. The duration of a cost-share grant agreement shall be five years from the date of submission of verified documentation of project completion.
- b. Grantees shall not use the infrastructure to store and dispense motor fuel other than the type approved by the board, unless one of the following applies: (1) the grantee is granted a waiver by the board, or (2) the grantee pays back the moneys awarded with an additional 25 percent penalty.

314.5(5) *Waiver criteria.* The board may waive repayment of grant funds plus the 25 percent penalty. A grant recipient seeking a waiver during the time period in which a cost-share agreement is in effect shall submit a written waiver request to the board. The board will consider waiver requests under the following circumstances:

- a. Transition provision for awards made prior to December 21, 2006. A grant recipient that received an award prior to December 21, 2006, and signed a cost-share agreement contract that included the five-year exclusive use of renewable fuel requirement has up to 60 days after July 25, 2007, to request that the board rescind the contract and grant a permanent waiver of the 25 percent penalty. Any grant funds disbursed shall be paid back, the 25 percent penalty will be waived, and the contract will be terminated.

b. Permanent waiver.

(1) Waiver due to completion of contract obligations (no repayment and no 25 percent penalty). The board hereby grants a waiver of the obligation to repay grant funds plus any penalty to all grant recipients that satisfy the terms and conditions of their cost-share grant agreements including, but not limited to, the five-year exclusive use of renewable fuel requirement.

(2) Waiver due to demonstration of good cause (no repayment and no 25 percent penalty). A grant recipient may request a permanent waiver during the time period in which a cost-share grant agreement is in effect if the grant recipient can demonstrate good cause for failure to continue using the approved renewable fuel. "Good cause" includes, but is not limited to, events such as the following:

1. Permanent business closure due to bankruptcy.
2. Permanent closure of underground or aboveground storage tanks.

(3) Waiver due to demonstration of financial hardship (repayment on a sliding scale and no 25 percent penalty). A grant recipient may seek a permanent waiver of exclusive use of the approved renewable fuel during the time period in which a cost-share agreement is in effect due to financial hardship. The grant recipient must demonstrate that continuing to dispense the renewable fuel at a project site will cause a financial hardship. A request for waiver due to financial hardship shall include documentation to show a “good faith” effort to market the fuel, specifically the most recent six-month history of gallons of approved renewable fuel sold by month, marketing/advertising efforts, retail price comparison of E-85 to E-10 (or regular gasoline) or of biodiesel to regular diesel. If a waiver is granted, the 25 percent penalty will not be assessed, but the grant funds will be repaid as follows:

1. Months 1 through 10 of contract, 100 percent of grant amount.
2. Months 11 through 60 of contract, 2 percent of grant amount for each month remaining on contract.

c. Temporary waiver (temporary suspension of repayment and 25 percent penalty). A grant recipient may request a temporary suspension of the obligation to use only the approved renewable fuel and a temporary waiver of the repayment plus penalty requirement. A request for a temporary waiver, or an extension of a temporary waiver, will only be considered by the board if the recipient can document to the board’s satisfaction that market forces are not allowing for advantageous sales of the approved renewable fuel. A grant recipient shall submit documentation of the previous six-month sales history and marketing attempts to substantiate the grant recipient’s request for a temporary waiver. The following conditions apply to requests for a temporary waiver:

(1) A temporary waiver will not be granted during the first six months of a cost-share agreement.

(2) A temporary waiver will not shorten the grant recipient’s obligation to use the infrastructure to store and dispense the approved renewable fuel for a minimum of five years. If the board approves a temporary waiver, the contract duration will be extended by the length of the approved waiver period.

(3) A grant recipient may request a temporary waiver of up to six months. The board may approve a request to extend a temporary waiver for an additional six months, provided the total cumulative time period allowed for temporary waivers shall not exceed two years.

(4) If a state executive order suspending the Iowa Renewable Fuel Standard (RFS) schedule is issued, the board may decide to grant a temporary waiver to all grant recipients. The board will establish the duration of the waiver and provide written notice to all grant recipients of the board’s action. When the board determines that a temporary waiver is necessary due to suspension of the Iowa RFS schedule, the five-year contract period will not be extended by the length of the temporary waiver.

These rules are intended to implement 2006 Iowa Acts, chapter 1142, sections 28 to 34.

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